

THE SPEAKER: The question is on the passage of the bill.

Mr. Whitten: Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 366, nays 23, not voting 43.

Enrollment of Appropriation Bills

§ 11.29 Set out below is the form of a concurrent resolution providing that in the enrollment of general appropriation bills enacted during the remainder of a session the Clerk of the House may correct chapter, title, and section numbers.

On July 4, 1952,⁽¹⁷⁾ Mr. George H. Mahon, of Texas, by unanimous consent, submitted the following concurrent resolution (H. Con. Res. 239):

Resolved by the House of Representatives (the Senate concurring), That in the enrollment of general appropriation bills enacted during the remainder of the second session of the Eighty-second Congress the Clerk of the House may correct chapter, title, and section numbers.

The concurrent resolution was considered and agreed to. A motion to reconsider the vote whereby the concurrent resolution was

17. H. JOUR. 746, 82d Cong. 2d Sess.

agreed to was, by unanimous consent, laid on the table.

§ 12. Points of Order; Timeliness

Parliamentarian's Note: The Committee of the Whole has no authority to delete by points of order portions of a bill referred to it by the House absent reservation of that authority in the House at the time the bill is first referred to the Calendar of the Committee of the Whole House on the state of the Union (the Union Calendar). Absent reserved authority to delete provisions in violation of clauses 2 and 6 of Rule XXI, the Committee of the Whole can merely recommend amendments to be acted upon by the House to change general appropriation bills committed thereto.

Reservation of Points of Order

§ 12.1 Points of order are ordinarily reserved against general appropriation bills prior to referral of the bills to the Committee of the Whole, i.e., when placed upon the Union Calendar, and may be reserved thereafter only by unanimous consent.

On Feb. 26, 1940,⁽¹⁸⁾ the following proceedings took place:

18. 86 CONG. REC. 1991, 76th Cong. 3d Sess.

MR. [CLIFTON A.] WOODRUM of Virginia: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 8341) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1940, to provide supplemental appropriations for such fiscal year, and for other purposes; and pending that motion, I ask unanimous consent that general debate shall continue for 2½ hours, to be confined to the bill and the time to be equally divided between myself and the gentleman from New York [Mr. Taber].

THE SPEAKER: ⁽¹⁹⁾ Is there objection to the request of the gentleman from Virginia (Mr. Woodrum)?

MR. [JOHN] TABER [of New York]: Mr. Speaker, reserving the right to object, has this bill been reported?

MR. WOODRUM of Virginia: Yes; it has been reported.

MR. TABER: Mr. Speaker, I desire to reserve all points of order against the bill.

THE SPEAKER: Without objection, the gentleman from New York reserves all points of order against the bill.

There was no objection.

Parliamentarian's Note: Unanimous consent was requested since the bill had been referred to the Committee of the Whole by the Speaker when reported. That is the proper time to reserve points of order in the House against a general appropriation bill. Once the bill is referred to the Union

Calendar, it is then too late absent unanimous consent.

§ 12.2 The committee chairman obtained unanimous consent that the committee have until midnight to file a report on an appropriation bill, and a Member thereafter obtained unanimous consent to reserve all points of order on the bill.

On Nov. 26, 1945,⁽²⁰⁾ the following unanimous-consent request was made:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a report on the first deficiency appropriation bill.

THE SPEAKER: ⁽¹⁾ Is there objection to the request of the gentleman from Missouri?

There was no objection. . . .

MR. [EARL C.] MICHENER [of Michigan]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER: The gentleman will state it.

MR. MICHENER: I have been on the floor all morning, but I have been advised that earlier in the day unanimous consent was given to the chairman of the Committee on Appropriations to have until midnight to file a report on the deficiency appropriation bill. I did not hear that request.

20. 91 CONG. REC. 10984, 10993, 79th Cong. 1st Sess.

1. Sam Rayburn (Tex.).

19. William B. Bankhead (Ala.).

THE SPEAKER: The request was made and the consent was granted.

MR. MICHENER: The gentleman from New York [Mr. Taber], the ranking member of the Committee on Appropriations, was in the committee room, as I am advised, at the time. Had he been present and known about it, he would have asked permission to reserve all points of order on the bill.

I now ask unanimous consent to reserve all points of order on the bill.

THE SPEAKER: Is there objection to the request of the gentleman from Michigan?

There was no objection.

Precedence Over Pro Forma Amendment

§ 12.3 A point of order against a paragraph in a general appropriation bill takes precedence over any amendment (including a pro forma amendment) to that paragraph.

On June 4, 1970,⁽²⁾ during consideration in the Committee of the Whole of the foreign assistance appropriation bill (H.R. 17867) the following proceedings took place:

Sec. 117. None of the funds appropriated or made available in this Act for carrying out the Foreign Assistance Act of 1961, as amended, shall be available for assistance to the United Arab Republic, unless the President determines that such availability is es-

2. 116 CONG. REC. 18406, 91st Cong. 2d Sess.

sential to the national interest of the United States.

MR. [GEORGE H.] MAHON [of Texas]: Mr. Chairman, I move to strike the last word.

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I was on my feet to make a point of order as to section 117 that was just read.

THE CHAIRMAN:⁽³⁾ The gentleman from Wisconsin has a point of order on section 117?

MR. ZABLOCKI: That is correct, Mr. Chairman.

THE CHAIRMAN: The Chair will hear the gentleman from Wisconsin on his point of order.

MR. ZABLOCKI: Mr. Chairman, I will gladly defer to the gentleman from Texas (Mr. Mahon) if I do not lose my opportunity to make my point of order in so doing.

THE CHAIRMAN: The Chair will state that the point of order takes precedence.

Priority in Recognition

§ 12.4 Members of the committee reporting a bill have priority of recognition in making points of order against proposed amendments to bills.

On Mar. 30, 1949,⁽⁴⁾ the Committee on the Whole was considering H.R. 3838, an Interior Department appropriation bill. The

3. Hale Boggs (La.).

4. 95 CONG. REC. 3520, 81st Cong. 1st Sess.

Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Francis H.] Case of South Dakota: On page 47, line 7, strike out the period, insert a colon and the following: "*Provided further*, That no part of these funds shall be used to build, operate, or administer transmission lines to carry power developed at Fort Randall Dam across the boundaries of the State of South Dakota in which the power is produced, unless the power so produced shall exceed the requests for power in that State."

MR. [HENRY M.] JACKSON [of Washington]: Mr. Chairman, a point of order.

MR. [CARL T.] CURTIS [of Nebraska]: Mr. Chairman, a point of order.

THE CHAIRMAN:⁽⁵⁾ The Chair recognizes the gentleman from Washington, a member of the committee, to state a point of order.

Point of Order Against Two Paragraphs

§ 12.5 Because a general appropriation bill is read for amendment by paragraphs, a point of order against two consecutive paragraphs comprising a section in the bill can be made only by unanimous consent.

On June 4, 1970,⁽⁶⁾ the Committee of the Whole was consid-

5. Jere Cooper (Tenn.).

6. 116 CONG. REC. 18405, 91st Cong. 2d Sess.

ering H.R. 17867, a foreign assistance appropriation bill. A Member stated as follows, and proceedings ensued as indicated below:

MR. [DONALD M.] FRASER [of Minnesota]: Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, when the Clerk reads the next section, I propose to raise a point of order against both clauses (a) and (b), and I rise at this time to inquire if I can make the point of order against both clauses and have it considered at the same time.

THE CHAIRMAN:⁽⁷⁾ The Chair will state to the gentleman from Minnesota that that can be done only by unanimous consent.

Is there objection to the request of the gentleman from Minnesota?

MR. [OTTO E.] PASSMAN [of Louisiana]: Mr. Chairman, I object.

Assertion That Bill Is Not "General" Appropriation Bill.

§ 12.6 In response to a point of order based on Rule XXI clause 2, it was asserted that the bill under consideration was not a "general" appropriation bill and therefore not subject to the rule; but the Chair ruled that such assertion should have been made when the bill was first taken up as a privileged general appropriation bill and was not timely made after

7. J. Caleb Boggs (Del.).

the stage of amendment was reached.

On June 21, 1939,⁽⁸⁾ the Committee of the Whole was considering an appropriations bill.⁽⁹⁾ A point of order was raised against the following amendment:

Amendment offered by Mr. [Ross A.] Collins [of Mississippi]: Page 10, line 11, after the word "thereof", insert "*Provided further*, That of the amounts herein appropriated and authorized to be obligated for the procurement of 2,290 airplanes, obligations shall not be incurred for the procurement of more than 1,007 airplanes unless and until the President shall determine that the interests of national defense require the procurement of any portion or all of the number in excess of 1,007."

A point of order having been raised, the following exchange took place:

MR. [FRANCIS H.] CASE of [South Dakota]: Mr. Chairman, there are two points on which this is in order. In the first place, it proposes retrenchment; and, if so, comes under the Holman Rule. In the second place, the bill before us is not a general appropriation bill. The rule under which the point of order is made is rule XXI, section 2, and that rule specifically says:

No appropriation shall be reported in any general appropriation

bill. . . . For any expenditure not previously authorized by law. . . . Nor shall any provision in any such bill or amendment thereto changing existing law be in order—

And so forth. The limitations apply only to recognized general appropriation bills. In Cannon's Procedure, which I have in my hand, on page 20, this point is specifically treated, and on page 20 the statement is flatly made:

The rule applies to general appropriation bills only.

THE CHAIRMAN:⁽¹⁰⁾ The Chair is ready to rule. The argument just made, if containing merit, should have been made earlier, when the bill was taken up. It has been reported as a general appropriation bill and so considered, and was reported under the rules as a general appropriation bill.

Point of Order That Paragraph Has Been Passed

§ 12.7 A point of order that a paragraph has been passed and is therefore not subject to amendment will not lie where a Member was on his feet seeking recognition to offer an amendment, while the Clerk continued to read.

On Apr. 3, 1957,⁽¹¹⁾ The Committee of the Whole was considering H.R. 6287, the Departments of Labor and Health, Education,

8. 84 CONG. REC. 7673, 76th Cong. 1st Sess.

9. H.R. 6791, supplemental military establishment appropriation of 1940.

10. Schuyler Otis Bland (Va.).

11. 103 CONG. REC. 5034-36, 85th Cong. 1st Sess.

and Welfare appropriation bill. The following proceedings took place:

THE CHAIRMAN: ⁽¹²⁾ For what purpose does the gentleman from North Carolina rise?

MR. [HAROLD D.] COOLEY [of North Carolina]: Mr. Chairman, I offer an amendment which is at the Clerk's desk.

THE CHAIRMAN: The Clerk will report the amendment.

MR. [HAMER H.] BUDGE [of Idaho]: Mr. Chairman.

THE CHAIRMAN: For what purpose does the gentleman from Idaho rise?

MR. BUDGE: Mr. Chairman, I have an amendment.

THE CHAIRMAN: The gentleman from North Carolina has just been recognized to offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Cooley: On page 32, after line 21, insert the following paragraph: "Grants to States for training public-welfare personnel: For grants to States for increasing the number of adequately trained public-welfare personnel available for work in the publicassistance programs as authorized by section 705 of the Social Security Act, as amended, \$2,500,000."

MR. [ALBERT P.] MORANO [of Connecticut]: Mr. Chairman, I make a point of order. I believe that section was passed, but I will reserve the point of order.

MR. COOLEY: It was not passed. My amendment was at the Clerk's desk, but the Clerk was reading so rapidly that he passed that section inadvertently. . . .

MR. [JOHN] TABER [of New York]: Mr. CHAIRMAN, I make a point of order against the amendment on the ground that it is not in order at this point in the bill, the Clerk having read down to line 2 on page 33; and, furthermore, that it is not authorized by law.

MR. COOLEY: May I be heard on the point of order, Mr. Chairman?

THE CHAIRMAN: The Chair will hear the gentleman.

MR. COOLEY: Do I understand the gentleman to base his point of order upon the ground that this amount was not authorized by law?

MR. TABER: Upon the ground that the amendment is not in order at the point where the Clerk had finished reading.

THE CHAIRMAN: The Chair is ready to rule on that point. The gentleman from North Carolina was on his feet while the Clerk was reading. The Clerk continued to read before the gentleman had a chance to offer his amendment.

The gentleman was entitled to recognition.

The Chair overrules the point of order.

After Reading of Paragraph

§ 12.8 The time for making points or order against items in an appropriation bill is after the House has resolved itself into the Committee of the Whole and after the paragraph containing such items has been read for amendment.

12. Aime J. Forand (R.I.).

On July 5, 1945,⁽¹³⁾ the following proceedings took place in the House:

MR. [CLARENCE] CANNON [of Missouri]: Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3649), making appropriations for war agencies for the fiscal year ending June 30, 1946, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent to dispense with general debate in the Committee of the Whole.

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a parliamentary inquiry.

THE SPEAKER:⁽¹⁴⁾ The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, if, as in this case, the bill contains many items that are subject to a point of order, is it not in order to make a point of order against sending this bill to the Committee of the Whole?

THE SPEAKER: Under the rules of the House, it is not.

MR. MARCANTONIO: Then the procedure to make the point of order is to make it as the bill is being read for amendment?

THE SPEAKER: As the paragraphs in the bill are reached.

§ 12.9 The proper time to raise a point of order against language in a paragraph of a general appropriation bill is

13. 91 CONG. REC. 7226, 79th Cong. 1st Sess.

14. Sam Rayburn (Tex.).

after the paragraph has been read but before debate starts thereon. (Note: The Chair, however, will not permit the reading of an amendment to preclude a point of order made by a Member who has shown due diligence and who sought recognition at the proper time.)

On May 24, 1960,⁽¹⁵⁾ during consideration in the Committee of the Whole of a general appropriation bill, the following proceedings occurred:

The Clerk read as follows:

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by law. . . .

MR. [FRED] WAMPLER [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Wampler: On page 4, line 16, strike the amount "\$662,622,300" and insert in lieu thereof the amount "\$662,807,300".

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:⁽¹⁶⁾ The gentleman will state it.

MR. GROSS: I have a point of order against the language to be found on this page. Will the discussion of this

15. 106 CONG. REC. 10979, 10980, 86th Cong. 2d Sess.

16. Hale Boggs (La.).

amendment abrogate my right to make a point of order?

THE CHAIRMAN: The gentleman is correct, it would. If the gentleman has a point of order, it would have to be urged at this point.

MR. GROSS: The gentleman is trying to obtain recognition from the Chair to make a point of order.

THE CHAIRMAN: The Chair recognizes the gentleman to make the point of order.

§ 12.10 A point of order against language in a paragraph of an appropriation bill comes too late after the paragraph has been read and amendments thereto have been considered.

On May 25, 1959,⁽¹⁷⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 7176) the following proceedings took place:

MR. [CHARLES A.] VANIK [of Ohio]: Mr. Chairman, I make a point of order.

THE CHAIRMAN:⁽¹⁸⁾ The gentleman will state it.

MR. VANIK: I make a point of order to the language on page 9, lines 5 and 6 "from the Baltic countries."

THE CHAIRMAN: The Chair must advise the gentleman that the point of order comes too late. That section has been read and amendments to the section have been considered. The point of order is overruled.

17. 105 CONG. REC. 9013, 86th Cong. 1st Sess.

18. Carl Albert (Okla.).

The Clerk will read.

§ 12.11 A point of order against language in a paragraph of an appropriation bill comes too late after the paragraph has been read and an amendment thereto has been agreed to.

On June 13, 1961,⁽¹⁹⁾ the Committee of the Whole was considering H.R. 7577, a bill making appropriations for the executive office and the Department of Commerce. The Clerk read as follows, and proceedings ensued as indicated below:

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles, \$6,750,000. . . .

MR. [WRIGHT] PATMAN [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Patman: On page 28, lines 11 and 12, after "exceed", strike out "\$17,524,000" and insert "\$18,447,000".

MR. [GEORGE W.] ANDREWS [of Alabama]: Mr. Chairman, the committee accepts the amendment.

THE CHAIRMAN:⁽²⁰⁾ The question is on the amendment offered by the gentleman from Texas.

The amendment was agreed to.

19. 107 CONG. REC. 10177, 10178, 87th Cong. 1st Sess.

20. Carl Albert (Okla.).

The Clerk read as follows: . . .

For necessary expenses of the Subversive Activities Control Board, including services as authorized by section 15 of the Act of August 2, 1946 (5 U.S.C. 55a) . . . \$305,000.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN: The gentleman will state it.

MR. GROSS: Is a point of order to the language on page 29 in order?

THE CHAIRMAN: If it is to language preceding line 5 on page 29 it is not in order.

MR. GROSS: It does precede line 5 on page 29. The Clerk did not read the language on page 29, lines 1 to 5.

THE CHAIRMAN: The Clerk has read and an amendment has been adopted to the paragraph starting on page 28, line 8 and ending on page 29, line 5.

MR. GROSS. Then a point of order to the language on page 29, line 5, is not in order?

THE CHAIRMAN: The Chair will advise the gentleman it comes too late at this time.

Bill Considered as Read

§ 12.12 Where the remainder of a general appropriation bill has been considered as read and open to amendment at any point by unanimous consent, points of order against any provision in that portion of the bill must be made prior to debate or amendment to the remainder of the bill.

On June 26, 1972,⁽¹⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 15586) the following proceedings took place:

THE CHAIRMAN:⁽²⁾ The Clerk will read.

The Clerk proceeded to read the bill.

MR. [JOSEPH L.] EVINS of Tennessee: Mr. Chairman, I ask unanimous consent that the remainder of the bill be considered as read in full and open to amendment at any point.

THE CHAIRMAN: Is there objection to the request of the gentleman from Tennessee?

MR. [ROBERT H.] MICHEL [of Illinois]: Mr. Chairman, reserving the right to object, would that foreclose the making of a point of order against a point that has not been reached in the bill?

A point of order can still be made?

THE CHAIRMAN: Yes.

MR. [H. R.] GROSS [of Iowa]: Mr. Chairman, a further parliamentary inquiry.

Mr. Chairman, is it not necessary that the point of order be made now?

Having dispensed with the reading of the bill, the point of order has to be made now?

THE CHAIRMAN: If the unanimous-consent request of the gentleman from Tennessee is approved, the gentleman from Iowa is correct, the point of order should be made at that time.

Points of Order Against Amendments

§ 12.13 Points of order against proposed amendments must

1. 118 CONG. REC. 22428, 92d Cong. 2d Sess.
2. Wayne N. Aspinall (Colo.).

be made immediately after the amendment is read; after a Member has been granted 15 minutes to address the Committee of the Whole on his amendment, it is too late to make a point of order against it.

On Apr. 17, 1943,⁽³⁾ the Committee of the Whole was considering H.R. 2481, an Agriculture Department appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Amendment offered by Mr. [Clarence] Cannon of Missouri: On page 65, line 6, after the colon, insert: "*Provided further*, That no part of said appropriation or any other appropriation carried in this bill shall be used for incentive payments or subsidies or for any expense for or incident to the payment of incentive payments or any other form of subsidy payments."

MR. CANNON of Missouri: Mr. Chairman, I ask unanimous consent to speak for 15 minutes.

THE CHAIRMAN:⁽⁴⁾ Is there objection to the request of the gentleman from Missouri?

There was no objection.

THE CHAIRMAN: The gentleman is recognized for 15 minutes.

MR. [USHER L.] BURDICK (of North Dakota): Mr. Chairman, I reserve a point of order on the amendment.

3. 89 CONG. REC. 3510, 78th Cong. 1st Sess.

4. William M. Whittington (Miss.).

THE CHAIRMAN: The point of order comes too late.

MR. [JOHN] TABER [of New York]: The regular order, Mr Chairman.

THE CHAIRMAN: The point of order comes too late. The gentleman has been recognized and has been granted permission to proceed for 15 minutes. The gentleman from Missouri is recognized.

Appropriations in Legislative Bills

§ 12.14 While Rule XXI clause 4 (now clause 5) provides that points of order against appropriations in legislative bills may be raised at any time, the practice of the House is that such points of order should be raised when the bill is read for amendment.

On Mar. 18, 1946,⁽⁵⁾ the Committee of the Whole was considering H.R. 5407, a bill granting certain powers to the Federal Works Administration. The following proceedings took place:

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 5407, with Mr. [Fadjo] Cravens [of Arkansas] in the chair.

MR. [FRANCIS H.] CASE of South Dakota: Mr. Chairman, I desire to make

5. 92 CONG. REC. 2365, 79th Cong. 2d Sess.

a point of order against portions of the bill in paragraphs (a), (b), and what was originally (c), proposed now to be made (b) by a committee amendment, on the ground that they constitute appropriations. Under the rule forbidding the reporting of appropriations by a committee without jurisdiction, I make a point of order against the consideration of the language on page 2, beginning in line 4, reading:

And the unobligated balances of appropriations heretofore made for the construction of projects outside the District of Columbia.

Also on page 2, beginning in line 23, the last sentence of that paragraph which reads:

Funds for this purpose are hereby made available from the unobligated balances of appropriations heretofore made for the construction of buildings outside the District of Columbia.

Under the rule, a point of order would lie against consideration of those portions of the bill, and I make such a point of order at this time.

MR. [FRITZ G.] LANHAM [of Texas]: Mr. Chairman, the appropriations referred to by the gentleman from South Dakota (Mr. Case) have already been made, and this money has been appropriated.

THE CHAIRMAN: The Chair believes that the proper time to raise such points of order is not at the present time, but when the bill is read under the 5-minute rule for amendment.

MR. CASE of South Dakota: Of course, I know that is frequently done, but I think the rule authorizes the point of order to be made at any time during consideration of the bill. . . .

THE CHAIRMAN: The Chair is informed that under the previous practice of the House, such points of order should be raised when the bill is read for amendment.

MR. CASE of South Dakota: I have no objection to presenting them later, but I do not want to lose my right to present them by failure to raise them at this time.

THE CHAIRMAN: The gentleman will not lose any of his rights.

§ 12.15 Points of order against appropriations in legislative bills may be raised at any time, even though debate has taken place on the merits of the proposition.

On June 17, 1937,⁽⁶⁾ the Committee of the Whole was considering H.R. 7472, a District of Columbia tax bill. The Clerk read as follows, and proceedings ensued as indicated below:

The Commissioners of the District of Columbia are hereby authorized and empowered, in their discretion, to fix, prescribe, and collect fees for the parking of automobiles. . . .

The Commissioners of the District of Columbia are further authorized and empowered, in their discretion, to purchase, rent, and install such mechanical parking meters or devices as the Commissioners may deem necessary or

6. 81 CONG. REC. 5915-18, 75h Cong. 1st Sess. See also 99 CONG. REC. 10398, 83d Cong. 1st Sess., July 29, 1953 (proceedings relating to H.R. 6016).

advisable to insure the collection of such fees. . . .

MR. [THOMAS] O'MALLEY [of Wisconsin]: I make the point of order that this section appropriates money out of fees to be collected, and therefore it is appropriation on a legislative bill. Line 24 provides that the purchase price of these machines shall be paid from the fees collected and the remainder of the fee shall be paid into the Treasury.

MR. [JACK] NICHOLS [of Oklahoma]: Mr. Chairman, I make the point of order that the point of order comes too late. The section has been debated and amendments have been offered, and an amendment to strike out the section has been offered.

MR. O'MALLEY: I was attempting to get recognition from the very beginning.

THE CHAIRMAN:⁽⁷⁾ The Chair is ready to rule. The last sentence of section 4, rule 21, provides as follows:

A question of order on an appropriation in any such bill, joint resolution, or amendment thereto may be raised at any time.

It is the opinion of the Chair that the point of order is properly raised at this time and that this is purely an appropriation, and, therefore, that language, as indicated in the gentleman's point of order, is ruled out of order.

The Chair sustains the point of order.

§ 12.16 A point of order under Rule XXI clause 4 (now clause 5) against an appropriation in a bill reported by a legislative committee) "may

7. James M. Mead (N.Y.).

be raised at any time"; and in response to an inquiry the Chair advised a Member that if the offending. Language was not stricken by amendment it could still be reached by a point of order.

On May 18, 1966,⁽⁸⁾ during consideration in the Committee of the Whole of an amendment to H.R. 14544, the Participation Sales Act of 1966, proceedings occurred as follows:

Committee amendment: On page 3, line 3 strike out "Notwithstanding any other provision of law," and insert: "Subject to the limitations provided in paragraph (4) of this subsection."

The committee amendment was agreed to Mr. [CHARLES R.] JONAS [of North Carolina]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:⁽⁹⁾ The gentleman will state the parliamentary inquiry.

MR. JONAS: Mr. Chairman, I have a point of order against the language to be amended by the committee amendment. I would not insist on the point of order if I knew the committee amendment would be adopted.

Should the committee amendment be rejected, I inquire of the Chair if I then might be able to lodge my point of order against the language stricken by the amendment.

THE CHAIRMAN: The Chair will state to the gentleman from North Carolina

8. 112 CONG. REC. 10894, 89th Cong. 2d Sess.

9. Eugene J. Keogh (N.Y.).

that the Chair will undertake to protect the gentleman's right to raise points of order under clause 4 of rule XXI at any time during the consideration of this section of the bill whether the committee amendments are adopted or rejected.

§ 12.17 A point of order having been raised in the Committee of the Whole against a bill reported by a legislative committee, on the ground that it proposed an appropriation contrary to Rule XXI clause 4 (now clause 5), the Committee rose pending decision by the Chair on the point of order.

On June 4, 1957,⁽¹⁰⁾ the Committee of the Whole was considering H.R. 6974, a bill to extend the Agricultural Development and Assistance Act of 1954. The following proceedings took place:

MR. [JOHN J.] ROONEY [of New York]: Mr. Chairman, I rise to a point of order against the entire bill, H.R. 6974, on the ground that it is a bill from a committee not having authority to report an appropriation. . . .

MR. [HAROLD D.] COOLEY [of North Carolina]: . . . I am a little bit apprehensive that the point of order may be sustained if the Chair is called upon to rule on it. But, I think it would be very unfortunate for us to delay final action on the bill, and in the circumstances we have no other alternative other than to move that the Committee do

now rise, and so, Mr. Chairman, I make that motion.

THE CHAIRMAN:⁽¹¹⁾ The Chair is prepared to rule on the point of order, but the motion offered by the gentleman from North Carolina that the Committee do now rise is in order, and the Chair will put the question.

The question is on the motion offered by the gentleman from North Carolina.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Hays of Arkansas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6974) to extend the Agricultural Trade Development and Assistance Act of 1954, and for other purposes, had come to no resolution thereon.

Parliamentarian's Note: In this case the language of the bill was in fact in violation of Rule XXI clause 4 (now clause 5), and the Member in charge of the bill moved that the Committee rise so application could be made to the Committee on Rules for a resolution waiving points of order against the bill. See House Resolution 274. However, a point of order under this rule applies only to offensive language in the bill, and not against consideration of the entire bill (see 7 Cannon's Precedents §2142; 121 CONG. REC. 12049, 94th Cong. 1st Sess.,

10. 103 CONG. REC. 8318, 8319, 85th Cong. 1st Sess.

11. Brooks Hays (Ark.).

Apr. 28, 1975). If the entire language of the bill were ruled out in Committee of the Whole, the enacting clause would still exist and an amendment would still be in order if germane to the title of the bill and not containing an appropriation.

Point of Order Against Senate Bill

§ 12.18 Where language in violation of Rule XXI clause 4 (now clause 5) is stricken from a Senate bill in Committee of the Whole by a point of order, the Chairman reports that fact to the House.

On July 31, 1957,⁽¹²⁾ the Committee of the Whole was considering S. 1865, a bill providing for development and modernization of the national system of navigation and traffic control facilities. At one point, proceedings were as follows:

THE CHAIRMAN:⁽¹³⁾ The time of the gentleman from Michigan has expired.

All time has expired.

The Committee will rise.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Mahon, Chairman of the Committee of the Whole House on the

12. 103 CONG. REC. 13181, 13182, 85th Cong. 1st Sess.

13. George H. Mahon (Tex.).

State of the Union, stated that that Committee having had under consideration the bill (S. 1856) to provide for the development and modernization of the national system of navigation and traffic-control facilities to serve present and future needs of civil and military aviation, and for other purposes, pursuant to House Resolution 361, he reported the same back to the House.

The Chairman also reported that the language in the bill on page 7, line 12, reading as follows: "and unexpended balances of appropriations, allocations, and other funds available or" was stricken out on a point of order.⁽¹⁴⁾

§ 13. House-Senate Relations

The general subject of relations between the House and Senate, and that of House-Senate conferences, are discussed in other chapters.⁽¹⁵⁾ This section discusses a few issues that arise specifically with respect to appropriations.

Under the Constitution, it is exclusively the prerogative of the

14. *Parliamentarian's Note*: The resulting change in the Senate bill was treated as an amendment of the Senate bill and so engrossed and messaged to the Senate, though not voted upon as a separate amendment.

15. See Ch. 32, House-Senate Relations, *infra*; Ch. 33, House-Senate Conferences, *infra*. See also Ch. 13, Powers and Prerogatives of the House, *supra*.